

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

CYNTHIA COTTER,
Plaintiff,

v.

JP MORGAN CHASE BANK, et al.,
Defendants.

Case No. [15-cv-01802-MEJ](#)

**ORDER DISCHARGING ORDER TO
SHOW CAUSE; ORDER REFERRING
CASE TO ADR UNIT FOR
ASSESSMENT CONFERENCE**

On May 11, 2015, the Court ordered Plaintiff Cynthia Cotter to show cause by May 21 why this case should not be dismissed for failure to prosecute and failure to comply with court deadlines. Dkt. No. 15. Plaintiff did not respond to the Order to Show Cause, but she did file an Opposition to the Defendants' pending Motions to Dismiss. Dkt. No. 17. Although Plaintiff has not established good cause for her failure to prosecute this case diligently, it is preferable for cases to be resolved on the merits rather than dismissed for failure to prosecute under Federal Rule of Civil Procedure 41. Accordingly, the Court DISCHARGES the Order to Show Cause. However, notice is hereby provided to Plaintiff Cynthia Cotter that the Court may dismiss this case for failure to prosecute pursuant to Rule 41 if she continues to disregard court orders and deadlines.

The Order to Show Cause came in response to Plaintiff's failure to participate in ADR proceedings as ordered by the Court. Specifically, on April 28, 2015, the Court referred this foreclosure-related action to the ADR Unit for a telephone conference to assess the case's suitability for mediation or a settlement conference. Dkt. No. 9. Although the ADR Unit scheduled a phone conference to take place on May 11, 2015 (Dkt. No. 10), Plaintiff did not dial in to the phone conference and did not otherwise contact the ADR Unit. As the Order to Show Cause has now been discharged, the Court re-refers this case to the ADR Unit for a telephone conference. The conference shall take place by June 16, 2015. The parties shall be prepared to discuss the following subjects:

- (1) Identification and description of claims and alleged defects in loan documents.
- (2) Prospects for loan modification.
- (3) Prospects for settlement.

The parties need not submit written materials to the ADR Unit for the telephone conference. In preparation for the telephone conference, Plaintiff shall do the following:

- (1) Review relevant loan documents and investigate the claims to determine whether they have merit.
- (2) If Plaintiff would like a loan modification to resolve all or some of the claims, Plaintiff shall prepare a current, accurate financial statement and gather all of the information and documents customarily needed to support a loan modification request. Further, Plaintiff shall immediately notify counsel for Defendants of the request for a loan modification.
- (3) Provide counsel for Defendants with information necessary to evaluate the prospects for loan modification, in the form of a financial statement, worksheet or application customarily used by financial institutions.

In preparation for the telephone conference, Defendants shall do the following.

- (1) If unable or unwilling to do a loan modification after receiving notice of the request, Defendants shall promptly notify Plaintiff to that effect.
- (2) Arrange for a representative of each Defendant with full settlement authority to participate in the telephone conference.

The ADR Unit will notify the parties of the date and time the telephone conference will be held. After the telephone conference, the ADR Unit will advise the Court of its recommendation for further ADR proceedings.

Plaintiff is ORDERED to dial in to the ADR phone conference. Failure to comply with this Order may result in dismissal of this case for failure to prosecute.

IT IS SO ORDERED.

Dated: May 27, 2015

United States Magistrate Judge



MARIA-ELENA JAMES

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CERTIFICATE OF SERVICE


I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

That on May 27, 2015, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

Cynthia Cotter
3325 San Leandro Street
Oakland, CA 94601

Dated: May 27, 2015

Richard W. Wieking
Clerk, United States District Court

By: 
Chris Nathan, Deputy Clerk to the
Honorable MARIA-ELENA JAMES

United States District Court
Northern District of California